

Appl. No.: 10/806,676
Docket No.: GP-303899/GM2-0092

The claims stand restricted as follows:

- I. Claims 1-8 and 7-24 [understood by Applicant to be Claims 1-8 and 17-24], allegedly drawn to an article and method of texturing an electrode, classified in class 428, subclass 687.
- II. Claims 9-16, allegedly drawn to a method of texturing an electrode, classified in class 72, subclass 412.

Applicant hereby elects Group I, Claims 1-8 and 17-24, *with traverse*, respectfully traversing the Election / Restriction requirement for the following reasons.

If the search and examination of an entire application can be made *without serious burden*, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. MPEP 803. (Emphasis added).

In the instant case, the Examiner alleges that Group I has a rotation step that is not in Group II, and therefore Groups I and II are unrelated, warranting a restriction. Paper 05212006, page 2.

The Examiner also alleges that Group I is classified in class 428, subclass 687 (directed to surface features on stock material), and that Group II is classified in class 72, subclass 412 (directed to metal deforming by tool embodying non-planar toolface). Paper 05212006, page 2.

While Applicant appreciates that Group I presently has a rotation step that is not in Group II, Applicant nonetheless sees class 428/subclass 687, and class 72/subclass 412, as potentially applying to both Groups I and II (for example, both groups relate to surface features and metal deforming), and therefore submits that a search in both classes/subclasses may be required by the Examiner for a complete examination of any one of the Groups. As such, Applicant submits that a search of both classes/subclasses for any one Group would not result in serious burden on the Examiner if both Groups were examined applying the same search of both classes/subclasses.

Absent a serious burden to the Examiner, Applicant submits that under MPEP 803, the Examiner must examine the entire application on the merits, even though it includes claims to independent or distinct inventions.

Accordingly, Applicant submits that restriction of Groups I and II for examination purposes is improper.

For at least this reason, the Restriction Requirement dated May 26, 2006, is

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wholeheartedly traversed, and removal of the Requirement, at least with respect to the improper groupings noted above, is respectfully requested.

In the event the Examiner maintains that the election/restriction requirement is proper, Applicant understands that the scope of search for examination purposes of the elected claims will not include class 72, subclass 412. In the event of reconsideration by the Examiner to include a search of class 72, subclass 412, for examination of the elected claims, Applicant respectfully requests rejoinder of the non-elected claims, as the burden on the Examiner (relating to a search of an additional class/subclass) would have been removed under the Examiner's own initiative.

As always, the Examiner is cordially invited to contact the undersigned by telephone to resolve any issues that remain.

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Consideration and allowance of these claims are respectfully requested. The foregoing is believed to be fully responsive to this office action.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,

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